

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

JOHN H. SHAKESPEARE,

Plaintiff,

vs.

CITY & BOROUGH OF JUNEAU,  
et al.,

Defendants.

Case No. 1:05-cv-00015-JWS

ORDER GRANTING  
APPLICATION TO PROCEED  
WITHOUT PAYMENT OF FEES  
and DIRECTING SERVICE

John H. Shakespeare, representing himself, filed a civil rights complaint, and an application to waive the \$250 filing fee in this case.<sup>1</sup> Because Mr. Shakespeare stated that he had a pending state court case involving the same facts involved in this action, the Court required Mr. Shakespeare to show why the Court should not abstain from deciding this case, while his state court case is being litigated.<sup>2</sup>

Mr. Shakespeare then filed a response, indicating that his state court case is based upon the state's right to privacy, and that the present case is based upon his

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<sup>1</sup> See Docket Nos. 1, 2.

<sup>2</sup> See Docket Nos. 2, 4.

federal constitutional rights.<sup>3</sup> In particular, Mr. Shakespeare provided a state court order, denying his summary judgment motion, which specifically states that Mr. Shakespeare has "the alternative remedy of filing a 42 USC § 1983" case in state or federal court,<sup>4</sup> thus showing why the exercise of jurisdiction by this Court will not interfere with his state judicial proceedings.

Because Mr. Shakespeare did not provide full and complete financial information on his initial application to waive the filing fee, however, he was required to file an amended application.<sup>5</sup> Mr. Shakespeare has now filed an amended application to waive the filing fee under 28 U.S.C. § 1915, showing that he is unable to pay the \$250.00 fee in this case.<sup>6</sup> The application will, therefore, be granted.

**IT IS HEREBY ORDERED** that:

1. Mr. Shakespeare's amended application to waive the filing fee, at docket number 9, is GRANTED.
2. Mr. Shakespeare shall proceed with the steps outlined in this Order to insure that service of process is completed within 120 days of the date he filed his complaint.<sup>7</sup>

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<sup>3</sup> See Docket No. 5.

<sup>4</sup> See *id.*, Exhibit B at 7-8.

<sup>5</sup> See Docket No. 8.

<sup>6</sup> See Docket No. 9.

<sup>7</sup> See FED. R. CIV. P. 4(m).

3. The Clerk of Court shall send Mr. Shakespeare six summons forms with this Order. Mr. Shakespeare must complete the summons forms for each of the separate defendants, and return the completed original forms, plus two copies for each defendant, to the Court for signature and seal. If the summonses are in proper form, they will be issued for service.<sup>8</sup>
4. Once Mr. Shakespeare receives the summonses **issued** by the Clerk of Court (not the blank forms, which plaintiff must complete and send back to the Court), he shall send, **for each defendant**, a fully completed Form 285, a copy of the complaint, an original and one copy of the summons, and a copy of this Order to:

United States Marshal  
222 West 7th Avenue, Box 28  
Anchorage, Alaska 99513

5. When the United States Marshal receives from Mr. Shakespeare an appropriately completed Form 285, a copy of the complaint, an original and one copy of the summons, and a copy of this Order **for each defendant**, the Marshal shall serve a copy of the complaint, summons and this Order upon the defendants. All costs of this service shall be paid in advance by the United States. **Mr. Shakespeare is responsible for paying the U.S.**

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<sup>8</sup> See FED. R. CIV. P. 4(b).

**Marshal's fees and costs, however, and will be billed for these fees and costs after service of process is complete.**

6. Defendants shall have twenty (20) days after the date of service to file an answer or other responsive pleading.
7. Mr. Shakespeare shall serve a copy of all further pleadings or documents submitted to the Court upon the defendants or, if an appearance has been entered by counsel for defendants, on defendants' attorney(s). Mr. Shakespeare shall include, with any original paper to be filed with the Clerk of Court, a certificate stating the date that an exact copy of the document was mailed to the defendants or their counsel. A certificate of service may be written in the following form at the end of his document:

I hereby certify that a copy of the above (name of document) was served upon (name of opposing party or counsel) by (mail/fax/hand-delivery) at (address) on (date).

\_\_\_\_\_  
(Mr. Shakespeare's Signature)

Any paper received by a District Court Judge or Magistrate Judge which has not been filed with the Clerk of Court or which does not include a certificate of service will be disregarded by the Court.

8. Mr. Shakespeare shall provide the Court with the original, plus one complete and legible copy, of every paper he submits for filing, as required by this Court's Local Rule 10.1(b).

9. At all times, Mr. Shakespeare shall keep the Court informed of any change of address. Such notice shall be titled "NOTICE OF CHANGE OF ADDRESS." The notice shall contain **only** information about the change of address, and its effective date. The notice shall not include any requests for any other relief. Failure to file the notice may result in the dismissal of the action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure.
10. No party shall have any *ex parte* communication (that is, communication without the presence and/or knowledge and consent of the other parties) with a District Court Judge or Magistrate Judge of this Court about the merits of this action. Mr. Shakespeare should not write letters to the Court, but must file any requests for action by the Court during these proceedings in the form of a **motion**.
11. The Clerk of Court is directed to send a copy of the Court's motion form, PS12, to Mr. Shakespeare with this Order.
12. The Clerk of Court is directed to send a copy of our *pro se* handbook, "Representing Yourself in Alaska's Federal Court," to Mr. Shakespeare with this Order.

DATED this 28th day of February, 2006, at Anchorage, Alaska.

/s/JOHN W. SEDWICK  
United States District Judge

